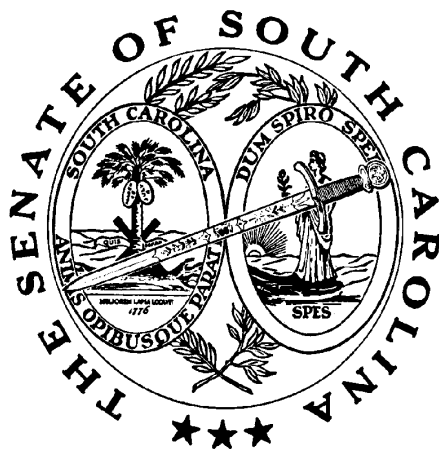


NO. 2

**JOURNAL**  
**OF THE**  
**SENATE**  
**OF THE**  
**STATE OF SOUTH CAROLINA**



**REGULAR SESSION BEGINNING TUESDAY, JANUARY 13, 2009**

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**WEDNESDAY, JANUARY 14, 2009**

**Wednesday, January 14, 2009**  
**(Statewide Session)**

~~Indicates Matter Stricken~~  
Indicates New Matter

The Senate assembled at 2:00 P.M., the hour to which it stood adjourned, and was called to order by the PRESIDENT.

A quorum being present, the proceedings were opened with a devotion by the Chaplain as follows:

In Isaiah we read:

“O Lord, be gracious to us; we long for you. Be our strength every morning, our salvation in time of distress.” (Isaiah 33:2)

Let us pray:

O God, as we continue through these stress-filled days, we indeed turn to You, calling to You again and again, seeking Your blessings, needing Your comfort. We ask You, Lord, to bestow Your fullest gifts upon these leaders here in the Senate of South Carolina. May each of these Senators truly be strengthened by Your grace and Your power. Especially be with this entire body of legislators as they gather this evening in Joint Session for the address of our State’s Governor, the Honorable Mark Sanford. May everyone in this Statehouse join together in common desire and purpose to make decisions and plans that will bring about ultimate hope and promise for all South Carolinians. In Your loving name we pray, Lord.

Amen.

The PRESIDENT called for Petitions, Memorials, Presentments of Grand Juries and such like papers.

**MESSAGE FROM THE GOVERNOR**

The following appointments were transmitted by the Honorable Mark C. Sanford:

**Local Appointments**

Reappointment, Calhoun County Magistrate, with the term to commence April 30, 2006, and to expire April 30, 2010

Robert H. Lake, 212 Carlisle Ave., St. Matthews, SC 29135

**WEDNESDAY, JANUARY 14, 2009**

Initial Appointment, Calhoun County Magistrate, with the term to commence April 30, 2006, and to expire April 30, 2010

Thomas Randolph, 61 Bristlecone Drive, St. Matthews, SC 29135  
*VICE* Ethel Wright

Initial Appointment, Clarendon County Election Commission, with the term to commence March 15, 2008, and to expire March 15, 2010

At-Large:

Patrick Goodwin, P. O. Box 329, Turbeville, SC 29162 *VICE* Joe Coker

Initial Appointment, Clarendon County Magistrate, with the term to commence April 30, 2006, and to expire April 30, 2010

June Cottingham Briggs, P. O. Box 355, Manning, SC 29102 *VICE* Joseph Postell

Reappointment, Savannah River Site Redevelopment Authority, with the term to commence October 21, 2006, and to expire October 21, 2010

Aiken County:

Fred E. Humes, Economic Development Partnership P. O. Box 1708, Aiken, SC 29802

Initial Appointment, Savannah River Site Redevelopment Authority, with the term to commence October 21, 2006, and to expire October 21, 2010

Allendale County:

Sara Louise O'Neal, P. O. Box 646, Fairfax, SC 29827 *VICE* Dan Cannady

#### **REGULATION RECEIVED**

The following was received and referred to the appropriate committee for consideration:

Document No. 4036

Agency: Department of Insurance

38-65-20, 38-65-360, 38-69-10, 38-69-20, 38-69-330

SUBJECT: Replacement of Life Insurance and Annuities

Received by Lieutenant Governor January 13, 2009

Referred to Banking and Insurance Committee

[SJ]

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Legislative Review Expiration May 13, 2009

**Doctor of the Day**

Senator KNOTTS introduced Dr. John G. Black of West Columbia, S.C., Doctor of the Day.

**CO-SPONSORS ADDED**

The following co-sponsors were added to the respective Bills:

S. 1 - Sens. Hayes, Davis  
S. 2 - Sens. Hayes, Davis  
S. 5 - Sen. Sheheen  
S. 14 - Sen. Hayes  
S. 106 - Sen. Hayes  
S. 116 - Sen. McConnell  
S. 128 - Sen. Davis  
S. 129 - Sen. Davis  
S. 130 - Sen. Davis  
S. 137 - Sen. Davis  
S. 138 - Sen. Davis  
S. 139 - Sen. Davis  
S. 143 - Sen. Hayes  
S. 145 - Sen. Davis  
S. 150 - Sen. Davis  
S. 151 - Sen. Hayes  
S. 155 - Sen. Hayes  
S. 156 - Sen. Davis  
S. 158 - Sen. Davis  
S. 159 - Sen. Davis  
S. 160 - Sen. Davis  
S. 161 - Sen. Davis  
S. 162 - Sen. Davis  
S. 163 - Sen. Davis  
S. 164 - Sen. Davis  
S. 165 - Sen. Davis  
S. 169 - Sen. Davis  
S. 181 - Sen. Hayes  
S. 191 - Sen. Sheheen  
S. 203 - Sen. Davis  
S. 205 - Sen. Davis  
S. 206 - Sen. Davis

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S. 208 - Sens. Davis, Shoopman  
S. 212 - Sen. Davis  
S. 214 - Sen. Davis  
S. 219 - Sen. Davis  
S. 221 - Sen. Davis  
S. 229 - Sen. Davis  
S. 242 - Sen. O'Dell  
S. 248 - Sen. Shoopman

**INTRODUCTION OF BILLS AND RESOLUTIONS**

The following were introduced:

S. 266 -- Senator Leventis: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59-1-490 SO AS TO REQUIRE THE DEPARTMENT OF EDUCATION TO DEVELOP A MODEL DATING VIOLENCE POLICY TO ASSIST SCHOOL DISTRICTS IN DEVELOPING SUCH POLICIES, TO REQUIRE THE POLICY TO BE PUBLISHED IN SCHOOL DISTRICTS AND SCHOOL HANDBOOKS, TO REQUIRE EACH DISTRICT TO PROVIDE DATING VIOLENCE TRAINING ANNUALLY TO ADMINISTRATORS, TEACHERS, NURSES, GUIDANCE COUNSELORS, AND SOCIAL WORKERS, AND TO REQUIRE SCHOOL DISTRICTS TO INFORM THE PARENTS OF STUDENTS OF THIS POLICY; AND BY ADDING SECTION 59-32-100 SO AS TO REQUIRE EACH SCHOOL DISTRICT ANNUALLY TO INCLUDE DATING VIOLENCE EDUCATION IN ITS COMPREHENSIVE HEALTH EDUCATION CURRICULUM, TO PROVIDE THAT THE DEPARTMENT SHALL REVIEW AND APPROVE GRADE LEVEL TOPICS RELATING TO DATING VIOLENCE AND HEALTHY RELATIONSHIPS; AND TO REQUIRE A SCHOOL, UPON REQUEST, TO PERMIT THE PARENT OR GUARDIAN OF A STUDENT TO EXAMINE THE DATING VIOLENCE EDUCATION PROGRAM INSTRUCTION MATERIALS.

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Read the first time and referred to the Committee on Education.

S. 267 -- Senators Leventis, Sheheen, Ryberg, Hutto, Massey, Matthews, Elliott, Setzler, Rose, Land, Bryant and Bright: A JOINT RESOLUTION TO PROVIDE THAT THE CLERK OF THE

**WEDNESDAY, JANUARY 14, 2009**

SENATE SHALL REDUCE THE MONTHLY IN-DISTRICT COMPENSATION FOR EACH SENATOR BY A PROPORTIONATE AMOUNT SO THAT EACH SENATOR'S ANNUAL IN-DISTRICT COMPENSATION IS REDUCED BY ONE THOUSAND DOLLARS.

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Senator LEVENTIS spoke on the Resolution.

Read the first time and referred to the Committee on Finance.

S. 268 -- Senator McConnell: A BILL TO AMEND CHAPTER 8, TITLE 6, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO BUILDING CODES ENFORCEMENT OFFICERS, SO AS TO ESTABLISH A "SPECIAL INSPECTOR" OR "SPECIAL INSPECTION AGENCY" TO PERFORM BUILDING INSPECTIONS IN ONE OR MORE CONSTRUCTION TRADE DISCIPLINES, AND TO PROVIDE THE LICENSING PROCEDURE TO REQUIRE AUTHORIZATION FOR PERFORMING THESE INSPECTIONS FROM THE SOUTH CAROLINA BUILDING CODES COUNCIL AND THE DEPARTMENT OF LABOR, LICENSING AND REGULATION.

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Read the first time and referred to the Committee on Judiciary.

S. 269 -- Senator Rose: A BILL TO AMEND ARTICLE 1, CHAPTER 3, TITLE 1 OF THE 1976 CODE, RELATING TO GENERAL PROVISIONS AFFECTING THE GOVERNOR, BY ADDING SECTION 1-3-60 TO PROVIDE THAT THE GOVERNOR MUST ESTABLISH AND MAINTAIN A TOLL-FREE TELEPHONE NUMBER TO RECEIVE INFORMATION, SUGGESTIONS, AND COMPLAINTS CONCERNING FRAUD, WASTE, ABUSE, MISMANAGEMENT, MISCONDUCT, OR UNETHICAL CONDUCT VIOLATIONS OF STATE OR FEDERAL LAWS AND WRONGDOING IN STATE GOVERNMENT.

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Read the first time and referred to the Committee on Judiciary.

S. 270 -- Senator Thomas: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 17-13-35 SO AS TO PROVIDE THAT A LAW ENFORCEMENT

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OFFICER WHO IS OPERATING A LAW ENFORCEMENT VEHICLE OUTSIDE HIS JURISDICTION MAY STOP ANOTHER VEHICLE IF THE VEHICLE IS BEING OPERATED IN A DANGEROUS MANNER AND ISSUE A TICKET TO ITS DRIVER FOR ANY TRAFFIC OFFENSE CHARGEABLE ON A UNIFORM TRAFFIC TICKET IF THE OFFENSE OCCURS IN PLAIN VIEW OF THE OFFICER.

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Read the first time and referred to the Committee on Judiciary.

S. 271 -- Senators Leventis, Courson, Rose, Bryant, Davis, Thomas, Verdin, Cromer and Campsen: A BILL TO AMEND CHAPTER 69, TITLE 2 OF THE 1976 CODE, BY ADDING SECTION 2-9-35, RELATING TO REQUIREMENTS TO TESTIFY BEFORE COMMITTEES OF THE SENATE OR HOUSE OF REPRESENTATIVES, TO REQUIRE THAT ALL PEOPLE WHO GIVE TESTIMONY TO ANY COMMITTEE OR SUBCOMMITTEE OF THE SENATE OR HOUSE OF REPRESENTATIVES MUST FIRST BE PLACED UNDER OATH AND TO DIRECT THAT WILFULL PRESENTMENT OF FALSE, MISLEADING, OR INCOMPLETE TESTIMONY UNDER OATH IN A PROCEEDING IN THE SENATE OR HOUSE OF REPRESENTATIVES BE TREATED AS PERJURY; AND TO AMEND SECTION 16-9-10, RELATING TO PERJURY, TO EXPRESSLY INCLUDE WILFUL PRESENTMENT OF FALSE, MISLEADING, OR INCOMPLETE TESTIMONY UNDER OATH IN A PROCEEDING IN THE SENATE OR HOUSE OF REPRESENTATIVES.

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Read the first time and referred to the Committee on Judiciary.

S. 272 -- Senators Leventis, Hutto and Elliott: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 1-1-713 SO AS TO DESIGNATE THE NORTHERN RIGHT WHALE AS THE OFFICIAL STATE MARINE MAMMAL OF SOUTH CAROLINA.

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Senator LEVENTIS spoke on the Bill.

Read the first time and referred to the Committee on Judiciary.

**WEDNESDAY, JANUARY 14, 2009**

S. 273 -- Senators Thomas and Anderson: A BILL TO AMEND SECTION 44-7-350, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO COMMUNITY RESIDENTIAL CARE FACILITIES, SO AS TO PROVIDE THAT THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL MAY NOT REMOVE A RESIDENT FROM THE FACILITY IF THE RESIDENT, THE RESIDENT'S FAMILY OR THE RESIDENT'S HEALTH CARE POWER OF ATTORNEY, THE RESIDENT'S PHYSICIAN, AND THE FACILITY AGREE TO THE RESIDENT'S CONTINUED STAY AND THE FACILITY IS CAPABLE OF PROVIDING OR OBTAINING NECESSARY SERVICES FOR THE RESIDENT.

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Read the first time and referred to the Committee on Medical Affairs.

S. 274 -- Senator Williams: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE PORTION OF SOUTH CAROLINA HIGHWAY 9 IN DILLON COUNTY FROM ITS INTERSECTION WITH HIGHWAY 57 TO 2725 HIGHWAY 9 WEST AS THE "REVEREND RICHARD 'DICK' ALDERMAN HIGHWAY" AND ERECT APPROPRIATE MARKERS OR SIGNS ALONG THIS PORTION OF HIGHWAY THAT CONTAIN THE WORDS "REVEREND RICHARD 'DICK' ALDERMAN HIGHWAY".

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The Concurrent Resolution was introduced and referred to the Committee on Transportation.

S. 275 -- Senators Hayes, Sheheen, Courson, Leventis, Anderson, Rankin, Grooms, Lourie, Mulvaney, Bryant, Davis and Coleman: A BILL TO AMEND CHAPTER 4, TITLE 49, CODE OF LAWS OF SOUTH CAROLINA, 1976, BY REDESIGNATING THE CHAPTER AS THE "SOUTH CAROLINA WATER WITHDRAWAL, PERMITTING, USE, AND REPORTING ACT", SO AS TO MAKE CERTAIN DECLARATIONS REGARDING THE STATE'S REGULATION OF RIPARIAN RIGHTS, TO PROVIDE CERTAIN DEFINITIONS, TO SPECIFY SPECIFIC EXEMPTIONS FROM THE CHAPTER, TO PROVIDE THAT USE OF THE WATERS OF THE STATE ON NONRIPARIAN LAND IS LAWFUL AND REQUIRES

**WEDNESDAY, JANUARY 14, 2009**

EQUAL CONSIDERATION WITH A USE ON A RIPARIAN LAND IN AN ADMINISTRATIVE OR JUDICIAL PROCEEDING RELATING TO AN ALLOCATION, WITHDRAWAL, OR USE OF WATER, OR TO A MODIFICATION OF A WATER RIGHT, AND VARIOUS PROVISIONS REGARDING THE PERMITTING AND REGULATION OF SURFACE WATER WITHDRAWERS; AND TO PROVIDE THAT THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL SHALL PROMULGATE A REGULATION PURSUANT TO CHAPTER 4, TITLE 49, RELATING TO SURFACE WATER WITHDRAWAL, PERMITTING, USE, AND REPORTING, TO ESTABLISH A FEE NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS CHAPTER.

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Read the first time and referred to the Committee on Agriculture and Natural Resources.

H. 3214 -- Rep. Harrell: A CONCURRENT RESOLUTION INVITING HIS EXCELLENCY, MARSHALL CLEMENT (MARK) SANFORD, JR., GOVERNOR OF THE STATE OF SOUTH CAROLINA, TO ADDRESS THE GENERAL ASSEMBLY IN JOINT SESSION AT 7:00 P.M. ON WEDNESDAY, JANUARY 14, 2009, IN THE CHAMBER OF THE SOUTH CAROLINA HOUSE OF REPRESENTATIVES.

The Concurrent Resolution was adopted, ordered returned to the House.

H. 3219 -- Rep. Gunn: A CONCURRENT RESOLUTION TO RECOGNIZE AND CONGRATULATE PRESIDENT-ELECT BARACK OBAMA ON HIS HISTORY-MAKING VICTORY IN THE 2008 UNITED STATES PRESIDENTIAL ELECTION AND TO WISH HIM WELL AS HE BEGINS HIS TERM OF OFFICE.

The Concurrent Resolution was adopted, ordered returned to the House.

**THE SENATE PROCEEDED TO A CALL OF THE UNCONTESTED LOCAL AND STATEWIDE CALENDAR.**

**WEDNESDAY, JANUARY 14, 2009**

**SECOND READING BILLS**

The following Bills, having been read the second time, were ordered placed on the Third Reading Calendar:

S. 234 -- Senator Rose: A BILL TO REQUIRE THE SUPERINTENDENT OF DORCHESTER COUNTY SCHOOL DISTRICT NO. 2 TO PREPARE AND SUBMIT TO THE COUNTY AND THE MUNICIPALITIES WITHIN DORCHESTER SCHOOL DISTRICT NO. 2 AN ANNUAL REPORT DETAILING INFORMATION REGARDING THE IMPACT OF DEVELOPMENT ON SCHOOLS WITHIN THE DISTRICT, TO REQUEST FROM THE COUNTY AND ALL MUNICIPALITIES WITH LAND ENCOMPASSED BY THE DISTRICT APPLICATIONS FOR LAND DEVELOPMENT PROJECTS THAT INCLUDE RESIDENTIAL HOUSING THAT MEET CERTAIN CRITERIA, TO DETERMINE WHETHER A PARTICULAR PROJECT WILL RESULT IN A SUBSTANTIAL IMPACT ON THE DISTRICT'S ABILITY TO PROVIDE SERVICES TO THE ADDITIONAL STUDENT POPULATION, AND TO PREPARE AND SUBMIT A REPORT TO THE COUNTY AND ALL MUNICIPALITIES WITHIN THE DISTRICT DETAILING THE IMPACT AND NEED FOR ADDITIONAL RESOURCES.

Senator ROSE explained the Bill.

On motion of Senator ROSE, the Bill was given a second reading.

**S. 234--Objection**

Senator ROSE asked unanimous consent to give the Bill a third reading on Thursday, January 15, 2009.

Senator McCONNELL objected.

S. 235 -- Senator Rose: A BILL TO AUTHORIZE THE BOARD OF TRUSTEES FOR DORCHESTER SCHOOL DISTRICT NO. 2 TO IMPOSE AN IMPACT FEE ON ANY DEVELOPER FOR EACH NEW RESIDENTIAL DWELLING UNIT CONSTRUCTED BY THE DEVELOPER WITHIN THE SCHOOL DISTRICT, TO PROVIDE THAT THE FUNDS MAY ONLY BE USED FOR THE CONSTRUCTION OF PUBLIC EDUCATION FACILITIES FOR GRADES K-12 WITHIN THE DISTRICT AND FOR THE PAYMENT OF PRINCIPAL AND INTEREST ON EXISTING OR

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NEW BONDS ISSUED BY THE DISTRICT, AND TO PROVIDE THAT THE IMPACT FEE SHALL BE SET AT AN AMOUNT NOT TO EXCEED THE COST THAT EACH ADDITIONAL DWELLING UNIT IMPOSES ON THE SCHOOL DISTRICT FOR PUBLIC EDUCATION FACILITIES.

Senator ROSE explained the Bill.

On motion of Senator ROSE, the Bill was given a second reading.

**S. 235--Objection**

Senator ROSE asked unanimous consent to give the Bill a third reading on Thursday, January 15, 2009.

Senator McCONNELL objected.

**ADOPTED**

S. 257 -- Senators Knotts, Setzler, Shoopman, Rose, Bryant, Verdin, Grooms, Alexander, Davis, Cleary, Campsen, Fair, Campbell, S. Martin, Bright and Cromer: A CONCURRENT RESOLUTION TO INVITE THE NATIONAL COMMANDER OF THE AMERICAN LEGION, THE HONORABLE DAVE REHBEIN, TO ADDRESS THE GENERAL ASSEMBLY IN JOINT SESSION IN THE CHAMBER OF THE SOUTH CAROLINA HOUSE OF REPRESENTATIVES AT 12:30 P.M. ON TUESDAY, FEBRUARY 24, 2009.

The Concurrent Resolution was adopted, ordered sent to the House.

**THE CALL OF THE UNCONTESTED CALENDAR HAVING BEEN COMPLETED, THE SENATE PROCEEDED TO THE MOTION PERIOD.**

**MOTION ADOPTED**

On motion of Senator McCONNELL, the Senate agreed that, when the Senate completed its business today, the Senate would stand in recess until 6:40 P.M. for the purpose of attending the Joint Assembly and at the conclusion of the Joint Assembly, the Senate would stand adjourned to meet at 11:00 A.M. tomorrow

**Motion Adopted**

On motion of Senator McCONNELL, with unanimous consent, the Senate agreed to go into Executive Session prior to adjournment.

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**EXECUTIVE SESSION**

On motion of Senator McCONNELL, the seal of secrecy was removed, so far as the same relates to appointments made by the Governor and the following names were reported to the Senate in open session:

**LOCAL APPOINTMENTS**

**Confirmations**

Having received a favorable report from the Senate, the following appointments were confirmed in open session:

Initial Appointment, Clarendon County Election Commission, with the term to commence March 15, 2008, and to expire March 15, 2010

At-Large:

Patrick Goodwin, P. O. Box 329, Turbeville, SC 29162 *VICE* Joe Coker

Initial Appointment, Calhoun County Magistrate, with the term to commence April 30, 2006, and to expire April 30, 2010

Thomas Randolph, 61 Bristlecone Drive, St. Matthews, SC 29135  
*VICE* Ethel Wright

Reappointment, Savannah River Site Redevelopment Authority, with the term to commence October 21, 2006, and to expire October 21, 2010

Aiken County:

Fred E. Humes, Economic Development Partnership P. O. Box 1708, Aiken, SC 29802

Reappointment, Calhoun County Magistrate, with the term to commence April 30, 2006, and to expire April 30, 2010

Robert H. Lake, 212 Carlisle Ave., St. Matthews, SC 29135

Initial Appointment, Savannah River Site Redevelopment Authority, with the term to commence October 21, 2006, and to expire October 21, 2010

Allendale County:

Sara Louise O'Neal, P. O. Box 646, Fairfax, SC 29827 *VICE* Dan Cannady

**WEDNESDAY, JANUARY 14, 2009**

Initial Appointment, Clarendon County Magistrate, with the term to commence April 30, 2006, and to expire April 30, 2010

June Cottingham Briggs, P. O. Box 355, Manning, SC 29102 *VICE*  
Joseph Postell

**RECESS**

At 3:26 P.M., on motion of Senator McCONNELL, the Senate recessed from business until 6:40 P.M.

**NIGHT SESSION**

The Senate reassembled at 6:40 P.M. and was called to order by the PRESIDENT.

**Committee to Escort**

The PRESIDENT appointed Senators SETZLER, PEELER, KNOTTS, NICHOLSON and SCOTT to escort the Honorable Marshall Clement (Mark) Sanford, Governor of South Carolina, and members of his party to the House of Representatives for the Joint Assembly.

**RECESS**

At 6:55 P.M., on motion of Senator McCONNELL, the Senate recessed from business for the purpose of attending the Joint Assembly.

**JOINT ASSEMBLY**

At 7:00 P.M., the Senate appeared in the Hall of the House.

The PRESIDENT of the Senate called the Joint Assembly to order and announced that it had convened under the terms of H. 3214, a Concurrent Resolution adopted by both Houses.

The Honorable Marshall Clement (Mark) Sanford and members of his party were escorted to the rostrum by Senators SETZLER, PEELER, KNOTTS, NICHOLSON and SCOTT and Representatives Bedingfield, Horne, Lowe, Dillard and Bales.

The PRESIDENT of the Senate introduced the Honorable Mark C. Sanford, Governor of the State of South Carolina.

The Governor addressed the Joint Assembly as follows:

**WEDNESDAY, JANUARY 14, 2009**

**2009 State of the State Address**

Mr. Speaker, Mr. President, Ladies and Gentlemen of the General Assembly, Constitutional Officers and my fellow South Carolinians:

It's an honor to be with you tonight to deliver my view on the state of our state, but as I've done in the past, I'd first ask that we pay tribute to the South Carolinians who died fighting in the Middle East and Afghanistan over the last year. Their deaths are a reminder to everyone of us of how short and fragile life can be – and beg of us the larger question of what are we doing to both honor their sacrifice, and to live the gift of life each of us has been granted.

Their service is also a reminder to all of us, particularly in these trying economic times, of how important it is that we look for ways to serve others – whether in the local church, the area soup kitchen, the food bank, or through national organizations like the Red Cross or Salvation Army. Many families across our state and nation are indeed hurting in these economic times, so there is a lot of need out there – and every one of us can follow these soldiers' examples in looking for ways to serve.

Finally, the fact that each of them died in service to their country is again a reminder that freedom isn't free. This year's list of heroes is as follows:

SGT Shawn Hill

SGT David Leimbach

MSG Danny Maybin

SSG Matthew Taylor

SSG Ronald Phillips, Jr.

Captain Richard Cliff, Jr.

While I'm at it I want to thank a few other people as well:

First, I'd like to recognize a state worker who is representative of so many who do their work without recognition. I'm a frequent critic of South Carolina government's growth and structure, but Al James – a park ranger for Parks, Recreation and Tourism – is an example of many who go beyond the call of duty in their work. In his case, this past summer he rescued kayakers on the Catawba River and he put himself in harm's way to do so. Al, please stand up and be recognized.

We've also been joined tonight by Carter and McCaleb White. They're both reminders of the ways in which every one of us can make a difference in South Carolina if we so choose. We don't have to wait for a government program – we can just do it – as they did. Tragically

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both of their grandfathers were diagnosed with cancer and as these boys visited the hospital and watched the monotony that came with hours of chemotherapy – they decided to do something about it. They put together a gift drive and collected everything from DVD players to stress balls and puzzles to help those afflicted with cancer in the waits for, during and after treatment. Hundreds of patients have now been helped, and so please give these young hometown heroes a round of applause for both their initiative and the difference they're making in others' lives.

Given the economic times that we live in, I'd also like to single out one of the First Lady's many efforts. When we got here the Lace House sat empty and the Waring House was kept open and used by the Governor for only a few weeks out of the year. Jenny and her team ended this practice of allowing these properties to sit and raised private money to renovate the Lace House and then began a rental program. These efforts were duplicated at the Waring House and now both properties are rented and hundreds of thousands of dollars have been generated to go to their maintenance rather than have all these costs borne by the taxpayer.

I tell that story because I think it's an illustration of how every one of us tied to government can follow the lead of working South Carolinians in being creative in finding ways to do more with less. Whether in Dillon or Grey Court or Yemassee, doing more with less is what families across our state are indeed doing everyday – and those of us who work in government should find ways to honor these daily decisions being made by the people who pay for government.

With all that being said – the state of our state is that we have both enormous challenges and opportunities before us. They will necessitate us doing what was suggested in a recent email that came my way that said simply, "We have to be doing things we should have been doing a long time ago." My question to every one of you is indeed can we make this the year that we make the changes that we should have begun long ago. We can't do anything about the "long ago," but we can do something about bringing change this year.

In Washington it was that spirit that in part gave us a new administration. We all saw a campaign based on the concepts of change and the resounding theme of "yes, we can." As an American I would wish the new administration success in deliberately working through many of the challenges facing this country, but as a South Carolinian I

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would simply ask that we take up the same mantle of “yes, yes we can” in overcoming so many of our state’s challenges.

Can we commit to the notion of “yes, we can” on just a couple of things this year key to bettering the lives of so many here in South Carolina? Because after all it was this thinking of “yes, we can” that led to the shattering of a glass ceiling that has hung over our nation for the last 200 years. Given this example alone, can we break the glass ceiling of an outdated governmental structure that has hurt the people of our state for more than 100 years?

I think that with the right approach there can be opportunity in the economic crisis before our state and country. We face economic conditions in our country, and by extension our state, the likes of which we have not seen since the 1930’s. As most of you know, I have believed for a very long time that this day would come, and as a consequence I have fought with many in your leadership on spending.

I didn’t have a crystal ball on economic trends; I simply heard from a lot of South Carolinians on common sense principles that they believed ought to apply to government. Trees don’t grow to the sky, winter follows summer and accordingly cattlemen from Pickens to Saluda put hay in the barn to be ready for winter’s arrival. Even the Bible talks about the Pharaoh’s dream and seven fat cows coming out of the Nile followed by seven skinny cows – so the notion of ups and downs, and of business and economic cycles, represent thinking that has been around for a very long time. Unfortunately as a nation, and as a state government, this idea has been forgotten by too many for too long.

Debt has grown three times faster than the national economy over the last fifteen years. Its dangers are something I described in detail at this very State of the State four years ago, yet this proliferation of debt has occurred in government, in business and within households across the country. The unsustainable march we were on has now come to an end, and so the bottom line is that as a nation, and again by extension as a state, we will face a tremendous deleveraging. There is no way to avoid this reality.

Other than possibly doing very harmful things to every dollar held by South Carolinians across this state, and most certainly leaving a frightening invisible federal mortgage to every taxpayer – the bailouts in the end will not change this and will do nothing to better our economy over the long run. I think as policymakers it’s exceedingly important that we really comprehend that, because what’s happening in

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the national economy is obviously going to very much impact us here in South Carolina.

In a typical recession caused by an excess in production or inventory, the tact that federal policymakers are taking with stimulus can work because the objective is to simply get the consumer buying again. We face something very different today after a 20 year run-up in spending and debt. This is a balance sheet-driven slowdown, and in these cases when people or businesses get stimulus monies they don't rush out to spend it – they work quite logically to get their balance sheets right. That's why the stimulus checks of last spring from the federal government were not spent and instead devoted to paying down debt. It's also why a lot of the financial institutions have not turned around and lent money as it was received but have instead worked to better the balance sheets that they know have many more non-performing loans still to come.

Where does all this leave us? With the simple truth that anybody who says that this economic slowdown will be short-lived I don't believe is telling the truth. I also believe that anyone who suggests that it won't get a whole lot worse before it gets better has missed how high the forest of debt and spending has indeed grown over these 20 years.

The differences between my views and the views of many in this room on matters involving budgets and spending have been widely documented and are well known. They need not be reviewed here tonight, and there is no satisfaction in vindication on budget matters when the people of our state are suffering under the difficult economic times we long believed would come. Though people will be hurt, there's nothing we can now do about what didn't happen in the way of fiscal restraint in Columbia, and so we must look forward. Our differences are in the past, and from my perspective, bygones are bygones – and all that matters is what we do from this day forward.

We've talked for six years about bringing change to Columbia in the way that decisions are made and in the outcomes that impact the lives of so many in our state – and therefore can change begin today? It is my hope that these jolting economic times force us to move South Carolina state government into the twenty-first century – and if they indeed force the change long overdue – they will prove to be a blessing many years down the road.

In some ways change has already begun because in last year's campaign, the winds of change swept across our country. Those winds will soon be felt in Washington, but South Carolina was not bypassed,

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because in this Capitol tonight, I am pleased by all the new faces I see. Eighteen percent of the House and 20 percent of the members of the Senate are new this year – nearly 1/5 in each body. My message to all the newly-elected members of the General Assembly, whether you're Republican or Democrat, is simply this: stay true to what you said when you were talking directly to the folks back home.

Your obligation is not to me, or to your leadership, or to your political party – it is to the people who sent you here and to the ideas and principles that propelled your candidacy. You were sent here to make a difference and to fight for what you ran on as you stood before the people of your district – and in this light I look forward to working with all of you on achieving your goals.

It was in this spirit that this administration and the General Assembly have been able to come together over the years as we cut the top marginal income tax rate for the first time in state history and passed the state's largest ever recurring tax cut. We came together as we passed comprehensive tort reform and workers' compensation reform, and those changes are in part evident in the more than \$4 billion in capital investment brought to our state last year, and the 132,000 more people working than in 2003 – which ranks 16<sup>th</sup> in the nation in employment growth in this time frame.

We've also taken steps toward improving government structure with the Department of Motor Vehicles and the Department of Transportation. I want to particularly thank each member for your work last year in passing DUI reform, immigration reform, and the small business health care bill. We had other successes that ranged from the Jasper Port bill, that will ultimately bring to fruition hopes and dreams for better economic opportunity to finally ending the so-called Competitive Grants program. As a result of DUI reform the quality of life for people in our state will be made better. There is more that can be done on this and many other fronts, but it's a reminder to all of us that where there is a will there is always a way, and I'm here to humbly ask for your will and work on just five areas this year.

First, given the economic times in which we live, and given the global competition that we're in for jobs, capital and way of life, we need to do things each year to make our business climate more competitive.

At the top of the list on this front is the tax reform proposal that we rolled out last month. It was premised on not waiting on Washington, D.C., for an economic stimulus package or a bailout, and instead

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focusing on the things that we can do here in South Carolina to grow our economy - and the opportunities that will come with it.

People are hurting in our state, and they rightly expect action to be taken. But what should we do? We can sit around and wait for the next bailout from Washington that piles ever more debt on our children and forces South Carolina taxpayers to pay for wasteful state government spending in California and New York. That, as you know, is not what I think we should be doing to better our economy.

Instead, we've proposed doing what anyone should do during financially hard times, namely, be very careful on the spending side, and try to improve our state's economic climate on the tax side. Lasting jobs and economic growth will never come from a government bailout. They will come from a tax and regulatory structure that rewards hard work, savings and enterprise - and in this vein we ought to be as competitive as possible in the global arena in attracting capital for the way that investment ultimately raises productivity and, in turn, people's wages and standard of living.

This tax proposal is also premised on the belief that government shouldn't be picking the winners and losers in the business marketplace and, therefore, government should treat businesses the same.

Too often government will hand incentives to the new business in town, but offer no help to the business producing the exact same product while that business has been paying taxes for years here in the state. Too often if you're a big business you get the red carpet rolled out in incentives, but if you're a little business you get nothing.

This was the case in the special legislation that offered \$9 million for Cabela's to come to South Carolina. I'm a hunter and would love for them to expand in our state, I just don't believe that little businesses who have been here for years selling the same kinds of things should be forced to subsidize them coming here. As much as that legislation would add one store, it would wipe out many more small ones that have been here for years. It turns out there are a fair number of special exemptions that have long outlived their usefulness, and our proposal takes what we spend on those incentives and redeploys these monies to phasing out the corporate income tax.

The second leg of what we have proposed to stimulate the economy is a flat tax of 3.65 percent in one's individual income tax return. Every South Carolinian would have the chance each year to pick between paying our current seven percent income tax rate, or forgoing their exemptions and paying a flat 3.65 percent. A report by the

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Atlanta Federal Reserve Board said that “relative marginal tax rates have a statistically significant negative relationship with relative state growth.” In everyday English that means high income tax rates slow the growth of people’s paychecks and low rates raise them.

To pay for this part of the tax cut, we would raise our lowest in the nation cigarette tax from seven cents to 37 cents. We would concurrently raise our state’s tipping fee on garbage because last year 30 percent of all the garbage buried in South Carolina came from other states. There is something wrong with mega dumps being proposed in Cherokee, Williamsburg, Marlboro and other rural counties across our state to handle garbage from places like New York and New Jersey.

Not all taxes are the same, and in taxes and fees associated with cigarettes and garbage, we are lowest and low, when measured against other states. There is a real cost in health care and the look and feel of our state that goes with not changing anything.

The net effect of these changes is that South Carolina’s ranking on the state business tax climate index would be that we would move from 25<sup>th</sup> to the 6<sup>th</sup> most competitive state in the country. We’ll never really outpace other states in growing our economy if we’re but average in our tax policy – but I think we would, if we were 6<sup>th</sup> in the country. I ask for your help in passing this jobs-creating proposal.

The second change we think essential to bettering the lives of South Carolinians is restructuring our government. Government in South Carolina costs 140 percent the national average, and given the budget challenges our state faces we can simply no longer afford our inefficient, unaccountable government structure. It represents the ultimate test in whether or not we are willing to meet the challenge represented in the email that suggested that “We have to be doing things we should have been doing a long time ago”.

I have come to fully understand how difficult full-scale change is in our state, and therefore I ask for just three steps toward the promised land of getting us out of the trap that locks us into doing things the way that they’ve always been done in state government and yet expecting a different result.

Last year, a Department of Administration bill passed the House unanimously before stalling in the Senate. Representatives Jim Harrison, Garry Smith and Laurie Funderburk reintroduced this measure on the House side this year, and Senators Larry Martin, Chip Campsen and Vincent Sheheen did so in the Senate. We believe passage of that bill should not only be one of the first orders of business

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for both the House and Senate this year, but I am thankful that representatives like James Smith have personally offered their help in the process.

I am also encouraged to see that the business and environmental communities are now behind DHEC restructuring. This change should happen this year.

Another small step toward a restructured South Carolina government lies in simply letting the people of South Carolina decide on whether a host of constitutional officers should instead be appointed rather than elected. To me it makes no sense to have a governor elected by the people, and yet have his first check on delivering promises made by, not the legislative or judicial branches of government – but the Lieutenant Governor, who in our state could be of opposite political persuasion and party. Would it make any sense to have the president and vice president in Washington elected with opposing agendas and wanting to go in opposition directions? I don't believe it would, and I think the people of South Carolina deserve the right to vote on this.

Finally, if there was ever a year to eliminate the costs that come with two agencies performing overlapping functions, this would be the year. The proposals we laid out in our budget in consolidating health services alone represents \$15 million in savings that could go from the administration of health care to actual health care for South Carolinians. Ultimately, each of these proposals is about better coordinating services because, for instance, in the example of health – a person can never receive good health care from a system that simply looks at the parts, rather than the whole, of one's health care picture.

The third area where “we have to be doing things we should have been doing a long time ago” lies in more fully opening up the workings of our state government so that our citizens can better understand not only what happened when a change is made – but why it happened.

That's why it is so important that we act on the issue of transparency that has been brought to the attention of South Carolinians by the leadership of Reps. Nikki Haley and Nathan Ballentine. I know that Senator Harvey Peeler and others have committed to pushing for similar reforms on the Senate side. This change is essential because leaving things as they are would perpetuate the mistaken notion that those in any political body don't need to explain all their votes and that weighty decisions on matters of public policy can be made without permanent record.

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The scab that covered this issue was brought to light last year when there was a COLA bill up for a vote in this chamber. Attached to it was a legislative pay raise that passed on a voice vote. To this day we still don't know who voted in favor or against this proposal, and all this illustrates how awkward and unaccountable a legislative system can be without more in the way of recorded votes.

I think all this boils down to a simple concept – and that is that if an idea is important enough to be voted on by the General Assembly of South Carolina, it's an idea important enough to be recorded.

That concept is rooted in the principle of accountability. We all need it. If no one ever knew whether or not you in fact showed up for work, wouldn't you on occasion find days to do something else? The same holds true in the political process. In concrete terms people need to know whether you voted for or against an idea because only then can the conversation begin on its merits, demerits and how change might be made.

We're also joining great groups like the South Carolina Policy Council in asking for legislation that would force real earmark disclosure, local government spending disclosure, a ban on taxpayer-funded lobbyists, public officials' income disclosure, and expanded open records laws. Some of these ideas we have talked about for a while as Rep. Jim Merrill has long been an advocate of ending the practice of some in government of taking public money to lobby for yet more public money.

Other ideas are new in our conversation like public officials' income disclosure, but come as a result of seeing some of the inner workings of our state government. Sadly, investigative journalists have uncovered several instances wherein a member of the General Assembly benefited from the very entity that they procured public funding for. It shouldn't take an investigation to find this; it ought to be openly disclosed. In other cases some members fought against a concept like workers' comp reform, but those of us who were advocates of this change never could connect all of the dots between those benefiting from the current system and those who fought against reform.

This is not to say that these two descriptions fit the character or conduct of most in this chamber. Transparency is a way of ending any suspicion that would wrongly cloud or taint the motives of so many here who simply work to advance ideas that they believe represent the will of their constituents. It really is nothing more than good housekeeping, and it worked well when I myself was a legislator, as

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each member of Congress has to disclose all their income sources. Members of the General Assembly should do the same.

If there has been any lesson learned as a consequence of the financial crisis that sparked this fall in the financial markets, it is that disclosure is vital. The problems of Freddie and Fannie, of credit default swaps and derivatives would not have come our way if there had been adequate financial disclosure – and we can avoid problems within our political system with greater disclosure and transparency.

The fourth key to making our state more competitive and indeed doing things we should have been doing for a long time lies in instituting spending limits. They are vital. In recently talking about the California budget, Governor Arnold Schwarzenegger said, “I say enough is enough, California has been put through this roller coaster ride too many times.” We all know what he’s talking about because here in South Carolina every few years we overspend when times are good and then cut past muscle and right into bone when times aren’t so good.

This leads to starts and stops in government programs that don’t serve well those who most need help from government, and it’s a very expensive way of doing business for the taxpayer. As South Carolina government spending grew by about 40 percent over the previous four years, it didn’t take an economist to know that it was not sustainable. Spending limits simply keep government from getting ahead of itself in the good times and force policymakers to follow the lead of cattlemen across our state as each year they put hay in the barn over the summer to be prepared for winter. We should do no less in government, and if we had held government’s growth since this administration started to population plus inflation – we could have had more than a billion dollars available to meet this year’s economic winter.

Measures to do this have passed the House numerous times, and a similar measure sponsored by Senator McConnell was narrowly defeated in the Senate just this past year. I would ask for your passage of a bill that limits government’s growth to population plus inflation and then allocates everything beyond this to first paying down unfunded liabilities and when this is done to then either set money aside for a rainy day or return it to the taxpayer.

In this same vein, last year we passed Representative Kirsh’s bill to address the more than \$20 billion in unfunded retiree and health care promises owed by South Carolina government. It created a vehicle to fund these promises, and it’s incredibly important we now begin to do

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so because we are headed to a disaster on the retirement side given the unrealistically optimistic return projections. What is happening here I believe is near criminal. In his 2007 letter to shareholders, Warren Buffett wrote about pension managers projections of eight percent returns, "If they're wrong, as I believe they are, the chickens won't come home to roost until long after they retire. Public pension funding is woefully inadequate. Because the fuse on this time bomb is long, politicians flinch from inflicting pain, given that problems will only become apparent long after these officials have departed. Promises involving generous cost-of-living adjustments are easy for these officials to make – those promises will be anything but easy to keep."

Finally on spending, let's do as Florida and other states have done in prohibiting one-time money from going to start, or fund, recurring programs.

Each of these things is a step away from a government of fits and starts and toward more sustainable spending and thereby a more competitive economy. If anything has been proven in states across our country it is that there is no "Terminator" when it comes to stopping government spending. With many allies in this chamber on spending restraint, I myself have at times felt like more of a speed bump in the fight to slow government's growth, and it underscores how we cannot get to sustainable spending without structural change.

The fifth step that I believe we can take this year to better life and opportunity for South Carolinians rests in bettering our educational system. Everyone understands well how education is a lynchpin to success in today's world. What we find less agreement on is how to get there. Too often people simply consider money as the key to bettering education, though one look at educational performances around the world proves how wrong this notion is. Accordingly, I think it's vital we look for ways to ensure our educational system has plenty of choices that reflect the individual diversity found in the more than 700,000 students in our state. We also need to find ways to better spend monies currently in the system. That's what competition does, unlike monopolies that are never good for the consumer – much less innovation and the performance that can come with it.

Accordingly our four goals on this front are as follows:

One, let's enact education funding that indeed follows the child. I don't think it makes a lot of sense to have a large part of one's opportunities in life defined by the geography of where you were born

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in our state. Whether a student moves across town, or from the foothills to the coast, it makes sense for the money to follow the child.

Two, lets pass a Charter School Parity bill. Two years ago we passed a groundbreaking charter school bill that allowed for more choices within public education. Too often that choice has proven to be “in name only” as local school districts fight to keep those charter schools from getting the funding they are due. Rather than penalizing the efforts of concerned teachers and parents, we should be rewarding it – and for me that’s what a parity bill is all about.

Three, if we limit choice to simply a monopoly of public schools we will never have real choice. For whatever the reason, if a school isn’t working for you and your child I believe, along with so many across this state, that you ought to be given the option to go to the place that works best for you. No one loves their children more than the parents and, accordingly, the notion of two systems of school choice to me is morally wrong. That’s what we have now. If you can afford the right house in the right neighborhood the choice is yours for either great public or private education for your children. If you cannot, you are mandated to attend a certain government school in your district. If you’ve got political connections or an exceptionally bright child on occasion you can change this, but this is the reality for the overwhelming bulk of children within the system, and we can never thrive educationally until it changes.

This central flaw impacts an amazing number of things even outside of education – whether that’s rural economic development, or the unrelenting increases to property tax bills in too many areas across our state.

Finally let’s link the price of higher education to its cost. By capping its increase we would force coordination – which is key to preventing higher education from continuing to spiral out of the reach of working families.

There are certainly other things that can be done in the arena of education that range from consolidating school districts to the building of true neighborhood schools, but the four just-mentioned points represent this administration’s major goals on education for the year.

There are many other things that we could do this year to better people’s lives in our state, but I have attempted to keep my list of goals for this legislative session short and specific. Inasmuch as there is time for *other* priorities I would encourage your work in several areas.

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In bettering people's employment opportunities, it's vital we update the Employment Security Commission. The forthcoming audit I believe will show significant deficiencies that need to be addressed so that we better marry the unemployed with job opportunities. To me it makes no sense to have an unemployment rate that is higher than we would like - while at the same time there were more than 50,000 unfilled job postings across the state.

On health care, I think it's vital that businesses and individuals alike have the opportunity to buy scaled-down health plans without mandates. Mandates price health care out of the reach of many working families. In essence they dictate that people buy a Cadillac when all they need is a Chevy.

On quality of life, I don't believe we will see many chances better than today to be setting aside open space in a South Carolina that will increasingly see less of it. Now is not only the time to take advantage of the buying opportunities that exist, but if nothing is done in the budget this year, our state will not be honoring contracts currently in place on open space. For these reasons, we redirected some money in the Executive Branch budget on a temporary basis for open space, and we ask you do the same.

I had better stop as I'm starting to go down a much longer list and my goal as mentioned earlier is to keep this year's wish list of legislative accomplishments indeed short and to the point. So, let me instead end with this quick story.

Our boys have long loved movies and particularly liked the movie *Remember the Titans*, which came out a few years ago. It's the true story of two coaches, a sports team and the then racially charged T.C. Williams High School of 1971 in Alexandria, Virginia. Integration of the school in earnest had just taken place as several schools had been folded into one - this presented a new challenge for coaches and players in figuring a way to come together despite their many differences and play as one team. Unite they did though. Despite what critics had considered impossible - they so ably moved past their differences and found ways to work together - that they went 13-0 for the season, and ultimately won the State Championship.

The consequences of our actions in this legislative year are far greater than the outcome of a football game, and so my hope and prayer is that we will find ways as Republicans and Democrats, as representatives from the Coast, Midlands, and Upstate - as South Carolinians - to come together to better the lives of people in our state.

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Thank you and good night.

The purpose of the Joint Assembly having been accomplished, the PRESIDENT declared it adjourned, whereupon the Senate returned to its Chamber and was called to order by the PRESIDENT.

**MOTION ADOPTED**

On motion of Senator McGILL, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mr. Francis Pelham Bradford, III of Kingstree, S.C.

and

**MOTION ADOPTED**

On motion of Senator SCOTT, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mr. Harold Laverne “Buddy” Johnson of Columbia, S.C. He was a loving husband, father and grandfather. He was a veteran of the U. S. Marine Corps and retired as a master carpenter.

**ADJOURNMENT**

At 7:56 P.M., on motion of Senator McCONNELL, the Senate adjourned to meet tomorrow at 11:00 A.M.

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